

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 277 – SB 459

March 14, 2013

SUMMARY OF ORIGINAL BILL: Requires a pregnant woman referred for drug abuse or drug dependence treatment at any treatment resource that receives public funding to be a priority user of available treatment and prohibits any such treatment resource from refusing to treat a person solely because the person is pregnant if appropriate resources are offered by the treatment resource. All records and reports regarding the pregnant woman are required to be kept confidential. The Department of Mental Health and Substance Abuse Services (MHSAS) is required to ensure that family-oriented drug abuse or drug dependence treatment is available as appropriations allow.

If an attending obstetrical provider during prenatal care determines no later than the end of the twentieth week of pregnancy that the provider's patient has used prescription drugs that may place the fetus in jeopardy, and drug abuse or drug dependence treatment is indicated, then the provider must encourage counseling, drug abuse or drug dependence treatment and other assistance to the patient. If the patient initiates drug abuse or drug dependence treatment based upon a clinical assessment prior to her next regularly scheduled prenatal visit and maintains compliance with both the drug abuse or drug dependence treatment based on a clinical assessment as well as prenatal care throughout the remaining term of the pregnancy, then the Department of Children's Services is prohibited from filing a petition to terminate the mother's parental rights or otherwise seek protection of the newborn solely because of the patient's use of prescription drugs for non-medical purposes during the term of her pregnancy; provided that the Department is authorized to file a petition to terminate the mother's parental rights or seek protection of the newborn should the Department determine that the mother, or any other adult caring for the newborn, is unfit to properly care for the child.

Any physician or other health care provider who does not recognize that a pregnant woman has used prescription drugs as described in the bill or that complies with the bill, or any physician or facility that initiates substance abuse treatment consistent with community standards of care pursuant to the bill will be presumed to be acting in good faith and will have immunity from any civil liability that might otherwise result by reason of such actions.

MHSAS is authorized to promulgate emergency rules in accordance with Title 4, Chapter 5, in order to implement the bill.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Not Significant

Other Fiscal Impact – According to the Department of Mental Health and Substance Abuse Services, to the extent the proposed legislation increases the utilization of treatment services by pregnant women, there will be less funding available to treat non-pregnant residential and intensive outpatient service recipients. Each pregnant residential treatment recipient costs approximately \$13,500 more than non-pregnant residential treatment recipients. Pregnant intensive outpatient services cost approximately \$500 more than non-pregnant recipients.

SUMMARY OF AMENDMENT (004352): Any physician or other health care provider who does not recognize that a pregnant woman has used prescription drugs after reasonable inquiry will be presumed to be acting in good faith and will have immunity from any civil liability that might otherwise result by reason of such actions.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- According to the Bureau of TennCare, the proposed legislation will not have a fiscal impact on the Bureau because it does not impact the cost or utilization of any TennCare covered services.
- According to the Department of Health, the proposed legislation will not have a fiscal impact on the Department.
- According to MHSAS, pregnant women are already a priority population for any program funded through MHSAS. In addition, the Substance Abuse Prevention and Treatment block grant also makes pregnant women a priority for services funded under the block grant.
- According to MHSAS, residential treatment provided to a pregnant woman costs approximately six times more than residential treatment provided to service recipients (\$16,412 and \$2,949, respectively). Intensive outpatient services for pregnant women and other service recipients are not significantly different (\$2,604 and \$2,067, respectively). Within existing funding, the Department will treat fewer residential and intensive outpatient service recipients to the extent that the proposed legislation increases demand of services by pregnant women. The fiscal impact of the proposed legislation on the Department will be not significant.
- According to the Department of Children's Services, the fiscal impact of the proposed legislation will be not significant because it is current Department practice not to pursue legal action against a mother based solely on the mother's prenatal drug abuse if the mother has initiated and maintained compliant drug abuse treatment throughout her pregnancy.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read 'Lucian D. Geise', written in a cursive style.

Lucian D. Geise, Executive Director

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